

REMARKS

Claims 1-2 and 4-25 were pending as of the action mailed on November 14, 2008.

Claims 1 and 25 are in independent form.

Claims 1, 11-12, and 25 are being amended. No new matter has been added. Support for the amendments can be found in the specification, for example, on page 5, lines 7-19; page 7, line 28 to page 8, line 7; page 8, lines 28-31; page 9, lines 8-12; and page 15, lines 18-24. Reconsideration of the action is respectfully requested in light of the foregoing amendments and the following remarks.

The Examiner rejected claims 1-2 and 4-25 under 35 U.S.C. § 112 as allegedly being indefinite. The Examiner rejected claims 1, 4-8, 17-20, 23, and 24 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0037151 ("Montvay") in view of U.S. Patent Application Publication No. 2003/0009520 ("Nourbakhsh"). The Examiner rejected claims 2, 9-16, and 21-22 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Montvay in view of Nourbakhsh and U.S. Patent Application Publication No. 2002/0118954 ("Barton"). The Examiner rejected claims 1 and 25 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Montvay in view of U.S. Patent No. 7,283,970 ("Cragun").

Section 112 Rejections

Claim 1 was rejected as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner stated that the relationship between "one or more solutions" and "a transmission schedule" was indefinite. Applicant has amended claim 1 to recite "determining one or more solutions for each of the plurality of jobs based on a program schedule." Support can be found in the specification, for example, on page 1, lines 20-25; and page 4; lines 8-20. Applicant respectfully requests that the section 112 rejection be withdrawn.

Section 103 Rejection

Claim 1 was rejected over Montvay in view of Nourbakhsh. Claim 1 is directed to a method that includes scoring each plan of a plurality of plans, where scoring each plan includes determining whether there is a null solution to a job in the plan and if so modifying the score for the plan based on having the null solution.

The Examiner states that Montvay does not specifically disclose assigning scores to the one or more plans, but that Nourbakhsh does disclose this feature at paragraph 20. Applicant respectfully disagrees.

Nourbakhsh generally discloses a technique for scheduling work schedules for employees at a call center in an efficient manner based on expected call loads and call types. *See* paragraph 2. Specifically, paragraph 20 of Nourbakhsh reads as follows:

At 204, scheduling software receives the scheduling data. The scheduling software is an existing tool for analyzing the scheduling data and generating scheduling constraints, including workload forecasts and service goals. The scheduling constraints are sent to a search engine at 206. The search engine generates potential schedules for analysis. At 208, analysis of schedules for deferred queues is performed to produce estimated service levels for the deferred queues according to the potential schedule that was analyzed. The analysis of 208 is performed using a forward-push discrete event modeler which estimates PCA for deferred queues given the workload and capacity in any given interval within the schedule period. PCA for deferred queues is used by the agent requirement scoring function at 210, along with service goals, to produce an agent requirement score. The analysis of 208 will be described more fully [sic] with reference to FIG. 4. The agent requirement score is used by the search engine 206 to evaluate the schedule. A schedule with the highest agent requirement score of all of the analyzed schedules is output as an "optimal" schedule to the user interface 202. The flow of FIG. 2 produces an optimal schedule, including optimal schedules for deferred queues as measured by traditional metrics used for immediate queues.

Paragraph 20 describes generating schedules for estimated services levels. Schedules are evaluated with respect to a score based on an agents available formula and an agents required formula. *See* paragraphs 26-27.

Each of the schedules in Nourbakhsh resolve all queues, even deferred queues. There are no null solutions for queues or schedules in Nourbakhsh. Thus, Nourbakhsh fails to teach or suggest the claimed scoring a plan including determining whether there is a null solution in the

plan. The claimed null solution would result in a schedule that would not be available under the formulas Nourbakhsh describes. Thus, the claimed plan is distinct from a schedule for efficient employee staffing in Nourbakhsh. Consequently, scoring the employee schedule of Nourbakhsh based on workload and available agents does not teach or suggest scoring a plan based on whether there are null solutions to jobs in the plan.

Applicant respectfully submits that claim 1, as well as claims 2 and 4-24, which depend from claim 1, are in condition for allowance.

Claim 1 was also rejected over Montvay in view of Barton. As stated previously, claim 1 is directed to a method that includes scoring each plan of a plurality of plans, where scoring each plan includes determining whether there is a null solution to a job in the plan and if so modifying the score for the plan based on having the null solution.

The Examiner relies on Cragun to disclose scoring plans at col. 4, lines 34-45; col. 5, lines 45-55, and col. 6, lines 15-34. Applicant respectfully disagrees. Cragun generally describes an electronic calendar meeting scheduling program for rescheduling meetings. *See* col. 4, lines 21-51. Specifically, col. 4, lines 34-45 read as follows:

In accordance with features of the preferred embodiment, additional capability over known calendaring systems is provided to automatically reschedule and renegotiate meetings, for example, when a new meeting absolutely must be fit into different busy schedules. Existing meetings are given a movability [sic] rating that defines how difficult is it to move a particular meeting. Several factors are involved, including how many people are involved in the move, availability and location of resources for the meeting, how soon the meeting must occur, and the importance of certain attendees, such as, executives or the person who called the meeting or the meeting's owner. A target time for the new or rescheduled meeting is found based on a least cost of moving other existing meetings. A temporary placeholder is provided or put in place to reserve space for a new meeting. The other meetings already in the target time are moved and notifications are sent to the attendees. Alternatively, meeting settings may require attendee approval before the other meetings are moved. If so, approvals are gathered. The new meeting is placed and confirmations are sent. An option allows notification by e-mail, phone or pager; for example, if change occurs on same day.

The cited portion of Cragun describes determining a likelihood that a singular meeting could be rescheduled to accommodate all necessary parties. Information regarding the meeting

as it stands are saved to determine a new schedule. *See* col. 4, lines 52-62. The meeting can be shortened or lengthened to accommodate different parties, and each meeting is planned separately. *See* col. 5, line 33 to col. 6, line 34.

The meetings of Cragun are distinct from the claimed plans. The claimed plans are scored where the scoring includes determining whether the plan includes a null solution to a job. Assigning meetings a movability rating that defines how difficult it is to move a particular meeting does not teach or suggest scoring a plan, where scoring each plan includes determining whether there is a null solution to a job in the plan and if so modifying the score for the plan based on having the null solution.

Applicant respectfully submits that claim 1, as well as claims 2 and 4-24, which depend from claim 1, are in condition for allowance.

Claim 25 is directed to a method that includes resolving the scheduling conflict including automatically determining one or more plans for performing jobs, each plan having a combination of solutions including a particular solution for each of the plurality of jobs, wherein resources used by the plurality of jobs for the combination of solutions in each plan are less than or equal to the number of resources available at each interval, where determining each plan includes scoring each job of the plurality of jobs and identifying a high scoring solution for a first job of the plurality of jobs and identifying solutions for each other job of the plurality of jobs compatible with the high scoring solution of the first job, where scoring each job includes determining whether the solution to a job is a null solution to the job and if so modifying the score for the job based on having the null solution. Applicant respectfully submits that claim 25 is allowable for at least the same reasons as claim 1.

Claim 18 was rejected over Montvay. Claim 18 is directed to filtering the one or more plans including keeping a first plan for presentation to a user and ignoring a second plan so that the second plan is not presented to the user.

The Examiner states that Montvay discloses the features of claim 18 at paragraphs 69-70. Applicant respectfully disagrees. Paragraph 69 discloses a step in a conflict resolution process. In particular, multiple solutions are examined to find a “good proposal”. *See* paragraph 69. Paragraph 70 discloses that searching can continue after an acceptable proposal has been found.

Neither of the cited paragraphs, however, disclose or suggest filtering plans including keeping one plan for presentation to a user and ignoring a second plan that is not presented to the user. Applicant respectfully submits that claim 18, as well as claim 19, which depends from claim 18, are in condition for allowance.

Conclusion

For the foregoing reasons, Applicant submits that all the claims are in condition for allowance.

By responding in the foregoing remarks only to particular positions taken by the Examiner, Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, Applicants' selecting some particular arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist. Finally, Applicants' decision to amend or cancel any claim should not be understood as implying that Applicant agrees with any positions taken by the Examiner with respect to that claim or other claims.

Please apply any credits or charges to Deposit Account No. 06-1050.

Respectfully submitted,

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